

LISA SCHMID, CCR, RMR OFFICIAL COURT REPORTER

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

2 -----x  
3 UNITED STATES OF AMERICA,

3 13 CR 220 (RJD)

4 versus

4 BEBARS BASLAN,

5 U.S. Courthouse  
6 225 Cadman Plaza East  
7 Brooklyn, NY 11201

8 Defendant.

9 -----x

10 TRANSCRIPT OF CRIMINAL CAUSE FOR SENTENCING HEARING

11 BEFORE THE HONORABLE RAYMOND J. DEARIE

12 UNITED STATES DISTRICT JUDGE

13 APPEARANCES

14 For the Government: LORETTA LYNCH  
15 UNITED STATES ATTORNEY  
16 EASTERN DISTRICT OF NEW YORK  
17 271 Cadman Plaza East  
18 Brooklyn, New York 11201  
19 BY: TYLER SMITH, ESQ.  
20 Assistant United States Attorney

21 For the Defendant: EPHRAIM SAVITT, ESQ.  
22 260 Madison Avenue  
23 22nd Floor  
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25 Also present: Leslie Lockwood, USPO

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32 Proceedings recorded by mechanical stenography. Transcript  
33 produced by computer-aided transcription.

1                   THE CLERK:  We're on this afternoon for a sentence.  
2 This is USA versus Bebars Baslan, Docket Number 13 Crim 220.  
3 Mr. Baslan is defendant number one.

4                   Can I ask the attorneys please to note their  
5 appearances, beginning with counsel for the government?

6                   MR. SMITH:  Tyler Smith for the United States, and  
7 with me at counsel table is Special Agent Aaron Spivack. Good  
8 afternoon, Your Honor.

9                   MR. SAVITT:  Good afternoon, Your Honor. Ephraim  
10 Savitt for Mr. Baslan, who is standing right next to me, as  
11 Your Honor sees.

12                  THE DEFENDANT:  Good afternoon, Your Honor.

13                  THE COURT:  You're ready to proceed, Mr. Savitt?

14                  MR. SAVITT:  I believe so, Your Honor.

15                  THE DEFENDANT:  (To Mr. Savitt) I need to talk to  
16 you for a minute.

17                  MR. SAVITT:  My client just asked if I could -- if  
18 he could just have a minute to talk with me.

19                  THE COURT:  One more accommodation to your client  
20 wouldn't be out of the ordinary. Go ahead.

21                  MR. SAVITT:  Thank you, your Honor. May we? Oh,  
22 I'm sorry.

23                  THE COURT:  And don't waste your minute.

24                  MR. SAVITT:  (Confers with the defendant.)

25                  THE COURT:  Did Ms. Leslie -- did you have an

1 appearance -- do we have your appearance on the record?

2 MS. LOCKWOOD: No.

3 THE COURT: You're going to take care of that?

4 MS. LOCKWOOD: Leslie Lockwood from the Probation  
5 Department.

6 (Pause in proceedings.)

7 THE COURT: Ready to proceed, Mr. Savitt?

8 MR. SAVITT: We are now, Your Honor.

9 THE COURT: All right. Mister -- hold on just a  
10 second. You're going to say something about this?

11 MR. SMITH: Yes, Your Honor. In preparing for  
12 today's proceeding, we noticed a mistake that we believe  
13 exists in the transcript relating to a comment of the Court,  
14 actually, during the testimony of the witness, Courtney, which  
15 occurs on the last page of what I've just handed up.

16 THE COURT: I have no idea what it was in reference  
17 to, but I know I didn't say it.

18 MR. SAVITT: The buzz thing, yeah.

19 MR. SMITH: Right. As it reads, it says, "I don't  
20 know if she's getting her buzz on or hurting herself." I  
21 believe that what the Court actually said was, "I don't know  
22 if she's helping herself or hurting herself."

23 MR. SAVITT: That would sound a lot like more like  
24 you, Your Honor, than the former.

25 THE COURT: I appreciate that. So we'll note that

1 correction for the record, page 444 of the trial record, at  
2 the conclusion, I would say of the direct testimony of the  
3 witness, Courtney.

4               Okay. Thank you for pointing that out. I would  
5 have had a heart attack if I had came across it myself.

6               Mr. Baslan, before we go any further, let me just  
7 remind you that with respect to your conviction, the jury has  
8 found you guilty with respect to four of the five counts. You  
9 have an absolute right to appeal your conviction to a higher  
10 court. Assuming your continuing eligibility, if you are  
11 interested in that regard, I believe counsel fees will be paid  
12 by the court under the authority of the Criminal Justice Act.  
13 Do you understand that, sir?

14               THE DEFENDANT: Yes, sir.

15               THE COURT: This is what -- it would be my  
16 impression that you intend to file a notice on your client's  
17 behalf?

18               MR. SAVITT: I will file a notice on my client's  
19 behalf, and we've discussed representation before the  
20 appellate court. I know that he wants another counsel. So I  
21 will make a motion to the Second Circuit with his consent to  
22 that end.

23               THE COURT: I leave that up to you and your  
24 colleagues in the Second Circuit.

25               MR. SAVITT: Yes, sir.

1                   THE COURT: All right. Technically, we begin, of  
2 course, with the report itself. Before we get to the  
3 Guidelines calculation, there are a couple of issues that the  
4 defense took exception to, which the government acknowledged  
5 it may be meaning the reference to marriage fraud in paragraph  
6 58, which will come out. And there is also a reference to the  
7 allegation in paragraph 64 that he stole \$18,000 from Albina  
8 W. Duvis?

9 MR. SAVITT: Duvis.

10 THE COURT: The government has no objection to  
11 removing paragraph 64.

12 So as far as the Guidelines calculation, I don't  
13 know how compelling the analysis is for purposes of today, but  
14 we are instructed to begin there, so we'll begin there.

15 There have been a couple of exceptions voiced by  
16 Mr. Savitt to the calculation. I think Probation got it  
17 right, and absent the need to have any extended discussion  
18 about it, I'll leave it at that and we can move on.

19 Mr. Savitt?

20 MR. SAVITT: Yes, Your Honor. This subject -- this  
21 case has been the subject of a lot of sentencing-related  
22 submissions on both sides. I know that Your Honor has been  
23 inundated with various submissions.

24 THE COURT: As recently as this morning.

25 MR. SAVITT: Yes, Your Honor. And I concede that

1 this submission was made by me twice, actually -- once this  
2 morning, once this early afternoon.

3                   And the one thing that I wanted to make sure is that  
4 the record contains not only the submissions by the attorneys  
5 in this case, but also Mr. Baslan's pro se submissions in  
6 their entirety. Now, I believe that Your Honor has seen all of  
7 them at this point. I just want to make sure that they're  
8 filed.

9                   THE COURT: The only one that I'll take  
10 responsibility of filing is the rather thick one I received  
11 earlier this week, his pro se filing.

12                   MR. SAVITT: Yes, Your Honor.

13                   THE COURT: I'll see to it that that's docketed with  
14 the Clerk of the Court.

15                   MR. SAVITT: Well, my client has not changed any of  
16 the substantive aspect of that submission, but in his efforts  
17 to be as careful as possible, he noticed that there were a lot  
18 of misspellings and he corrected the misspellings and he  
19 wanted to make sure that the corrected version is filed. I  
20 know Your Honor has read the previous.

21                   I took it upon myself not to file at the last moment  
22 the corrected version, because I know that Your Honor is on  
23 trial and I know that there are no substantive differences and  
24 I didn't want to confuse the situation.

25                   THE COURT: If his concern is about filing a cleaner

1 copy of the same submission --

2 MR. SAVITT: Yes, Your Honor.

3 THE COURT: -- I have no quarrel with that, provided  
4 I have his assurance that it is just that, a version from  
5 which misspellings or typos have been removed, with no  
6 additional substantive additions.

7 THE DEFENDANT: Yes, Your Honor. Just a couple of  
8 embarrassing misspellings, where instead of "makeshift," it's  
9 something else that sounds the same, but a couple of things  
10 like that.

11 THE COURT: Where is that document?

12 THE DEFENDANT: I put everything together here.

13 THE COURT: Ellie, would you be good enough?

14 THE CLERK: Certainly. (Complies.)

15 THE DEFENDANT: This overrides --

16 THE COURT: I don't need that now.

17 THE CLERK: Okay.

18 THE COURT: I've got copies of it here.

19 MR. SAVITT: It also includes the sentencing letter  
20 that I filed with my cover letter to the Court by Mr. Baslan.

21 THE COURT: I have that, too.

22 MR. SAVITT: Yes. And I believe it's the same, but  
23 in the interest of just caution, we have submitted another  
24 copy, Your Honor --

25 THE COURT: Well --

1 MR. SAVITT: -- along with the memorandum.

2 THE COURT: -- fair enough. Well, obviously, we  
3 find ourselves in very difficult circumstance here, but with  
4 preliminary matters aside, I will turn it over to you,  
5 Mr. Savitt.

6 MR. SAVITT: Yes, Your Honor. Your Honor, I  
7 apologize. My client has another submission that Your Honor  
8 has not read, and that does not impact on the sentencing  
9 proceeding whatsoever.

10 He wants to preserve an argument regarding  
11 ineffective assistance of counsel, and I'm hard-pressed, not  
12 having read it or since I'm the subject of that particular  
13 submission, to take any position that would necessarily agree  
14 with one or the other. What he asked me to do is ask the  
15 Court's permission to file this ECF, so that it's part of the  
16 record on appeal, as well.

17 THE COURT: I find it --

18 MR. SAVITT: I haven't read it, Your Honor.

19 THE COURT: -- curious. It's generally something  
20 that's handled collaterally --

21 MR. SAVITT: Yes, a 2255.

22 THE COURT: -- sometimes with new counsel, they  
23 appear. Their understandable desire is to have a full record.  
24 So whether he files before me or doesn't file before me isn't  
25 going to affect anything. But he's at liberty to tender

1 whatever he wants to here in the district court. Once I've  
2 signed the judgment, the case is beyond -- past me. So I'll  
3 leave it at that.

4 THE DEFENDANT: Would it be filed now or before the  
5 judgment?

6 THE COURT: (To Mr. Savitt) It's only -- we knew,  
7 you know, let's be honest. Sooner or later, you were going to  
8 be the target and indeed you are for the time being, as we  
9 went through the history of this case from time to time.

10 MR. SAVITT: Yes, Your Honor.

11 THE COURT: You would be targeted.

12 MR. SAVITT: Yes, Your Honor.

13 THE COURT: The decision to aim at you and then not  
14 aim at you and so forth, we have been through that. There's  
15 no reason to repeat it. It's inevitable you'll be the target  
16 again, as will a whole bunch of us. That's fine.

17 MR. SAVITT: Right, Your Honor. Well, the  
18 transcript of these proceedings are certainly going to be part  
19 of the appellate record, and Mr. Baslan has in his hands a  
20 document with a number of exhibits that perhaps if -- I know  
21 that he wants to have it filed now.

22 I would caution that perhaps he should discuss that  
23 with appellate counsel at some future point and see whether or  
24 not it might make more sense for him to file it at that point.  
25 To the extent that he's concerned about waiving any arguments,

1 I don't believe he's waiving any arguments. He's already made  
2 certain submissions and statements on the record where, as  
3 Your Honor put it, I was the target. And I understand his  
4 position. I don't necessarily agree with it, obviously, but I  
5 do understand.

6 THE COURT: What does he want to do? He wants to  
7 file it here?

8 MR. SAVITT: Yes, Your Honor.

9 THE COURT: Ellie?

10 THE CLERK: Yes, sir?

11 THE COURT: Take the document.

12 THE CLERK: (Complies.)

13 THE COURT: I think your suggestion is the better  
14 one. He would be well-advised to confer with appellate  
15 counsel before he does anything to further any claim he may  
16 press either on appeal or on collateral attacks, but that's  
17 his decision to make and it will be shown that he's willing  
18 and anxious to make his own decisions.

19 Okay. Let's get down to the heart of the matter,  
20 which is a more difficult question. We're dealing with an  
21 ominous thirty-year mandatory minimum sentence. I'm going to  
22 cut through it all. The question really is, given what's  
23 before me, given this trial record, given the proof that was  
24 adduced, what if anything do I do beyond that?

25 The government has pressed for a substantial

1 sentence in accordance with the recommendation of Probation  
2 beyond the thirty-year limit. So the question is where within  
3 that range of 30 to 45 years or for that matter, life  
4 imprisonment this Court should find as a judgment.

5 And with that, I'll turn it over to you.

6 MR. SAVITT: Well, Mr. Baslan will certainly have an  
7 opportunity, I want to assure him, to address the Court.

8 THE COURT: Of course.

9 MR. SAVITT: I've made Mr. Baslan's position as well  
10 as my own. They're the same, as far as this question is  
11 concerned, Your Honor.

12 Now that our post-trial motions have been denied by  
13 the Court that we've argued against an imposition of a  
14 thirty-year sentence based on Eighth Amendment grounds, and  
15 all that's preserved for the record.

16 So now we're at a position whether or not it should  
17 be 30 years or more, and our position, quite obviously, would  
18 be that 30 years is more than enough in this case, given the  
19 fact that Mr. Baslan has literally no prior history of any  
20 criminality -- and putting the Buffalo allegations aside just  
21 for a moment --

22 THE COURT: The what allegations?

23 MR. SAVITT: The Buffalo, New York --

24 THE COURT: Oh, that's preserved.

25 MR. SAVITT: -- those women.

1                   THE COURT: I don't know why there is such a focus  
2 of such attention in that regard in the sentencing. I can  
3 tell you right off the bat, they've got nothing to do with my  
4 judgment here.

5                   MR. SAVITT: Excellent.

6                   THE COURT: It's ancient history. I heard the  
7 testimony of the woman who testified here. She addressed a  
8 very minor point in the presentation of the defense, this  
9 so-called "journalism defense." As far as I'm concerned, it's  
10 got nothing to do with today's proceeding.

11                  MR. SAVITT: Thank you, Your Honor. In that case,  
12 Your Honor -- Your Honor is certainly as familiar with the  
13 proof in this case as the rest of us are.

14                  And what happened in this case, of course, is not  
15 something that I could argue should lead to any mitigation.  
16 But by the same token, it's not just the question that nothing  
17 happened. I understand, having been before this Court and  
18 many other courts that an attempt is equal in certain cases  
19 such as this one to a completed act.

20                  But if we look at his background, he's never done  
21 anything like this before. The U. S. Attorney and the FBI,  
22 I'm sure, conducted -- I have no question about it, knowing  
23 the caliber of the people involved in this case -- conducted a  
24 very exhaustive and extensive examination of Mr. Baslan's  
25 past, and there were certain things that were included in the

1 pre-sentence report, some of which, with the government's  
2 consent, were just stricken by Your Honor. And there were  
3 these Buffalo allegations, which Your Honor is not  
4 considering.

5 So given the record in this case, to sentence  
6 Mr. Baslan to more than 30 years really is an extremely  
7 disproportionate punishment for the offender and frankly, for  
8 the offense itself, which is a horrible offense. Your Honor,  
9 I can understand that. But by the same token, 30 years is a  
10 massive sentence. Forty-five years is twice the mandatory  
11 minimum murder sentence in New York state.

12 In another case -- and I can compare the two cases,  
13 where another client of mine was sentenced by Your Honor. He  
14 also faced life in jail. He shot a woman who was pregnant and  
15 I believe he did so accidentally, but it was felony murder and  
16 the statute permitted a number of years to be imposed as  
17 opposed to life, and he certainly didn't get anything close to  
18 45 years -- and he killed somebody and he kept on robbing  
19 people and, you know, I felt for him. But those are terrible  
20 crimes.

21 Mr. Baslan's crime, although unforgivable in a real  
22 sense, nevertheless was a crime that occurred without any  
23 precedent in his past. And frankly, we're not all together  
24 clear whether or not if, indeed, this were not a sting  
25 operation, exactly what would have transpired or what the

1 future would have held. I'm not sure about that.

2                   But certainly, the past is clearly something that  
3 speaks in Mr. Baslan's favor here, and I am reliant upon the  
4 Government's investigation where they came up with nothing, in  
5 fact, that was even remotely similar to the conduct --  
6 the offense conduct in this case. I'm sure they would have if  
7 it existed. But -- because I know their investigation was  
8 thorough. I mean, they went all the way up to Buffalo and all  
9 around. This was a multi-year investigation, and I credit  
10 them with conducting a very good investigation.

11                   So given all these factors, Your Honor, 30 years is  
12 more than enough in this case, and I beseech Your Honor not to  
13 impose a sentence that is in excess of the mandatory minimum  
14 as required by the Travel Act Statute.

15                   THE COURT: Sir?

16                   MR. SMITH: Your Honor, since the moment that  
17 Mr. Baslan was arrested, he has attempted to evade  
18 responsibility for his actions. On the night of his arrest,  
19 he offered to go to Russia if they would just let him go.  
20 After that, he offered to find child pornographers for the  
21 Government if we would make some deal with him.

22                   Almost immediately after arrest, he began engaging  
23 in a widespread attempt to obstruct justice that involved not  
24 just himself, but other people, a willingness to commit a  
25 fraud on the Court, and then he testified falsely at trial,

1 and he's continued making false representations to the Court  
2 until literally today, when he submitted the last submission  
3 in connection with sentencing.

4 Some of these are obvious clear lies, like his  
5 continuing indication that he never viewed the child  
6 pornography he watched with the government's informant until  
7 the day that he viewed it, despite various statements that  
8 made clear that was false.

9 And I just want to respond briefly to his latest  
10 submission because the government hasn't had any opportunity  
11 to put in a submission in writing to that. The defendant  
12 makes much of whether or not he's a pedophile, but ultimately,  
13 that's not an issue in the case.

14 What matters here is his conduct, and the evidence  
15 in the case is that on March 18th, in a recording March 18th  
16 before his arrest, he indicated that wanted to commit the  
17 offense because it was taboo and that's the reason that it  
18 would be interesting.

19 It's clear that he amassed one of the largest  
20 collections of child pornography that the New York Field  
21 Division of the FBI has seen. It's clear that he intended to  
22 create his own child pornography and that he certainly had the  
23 technical skills to distribute child pornography, if that was  
24 something he was going to do in the future. It's simply  
25 immaterial whether or not he meets the definition of

1 pedophile. What's at issue is his conduct, the conduct of  
2 trying to sexually abuse children and the fact that he lied  
3 and lied and lied and lied afterwards, to avoid  
4 responsibility.

5 I want to note that the defendant indicates that the  
6 Government has fully decrypted the computers that he had.  
7 That's not correct. We have not fully decrypted his  
8 computers. As he indicated in tape recordings made by the  
9 government's CI in prison, he identified that there were  
10 things on the computers that wouldn't even appear to be  
11 encrypted to the government. We've also identified locked  
12 containers that have never been decrypted.

13 And I think it's notable that throughout his own  
14 submission, in his own statements, the one thing he doesn't  
15 mention are the hours and hours of recordings that were made  
16 of him talking about sexually abusing children. The Court is  
17 certainly aware of them. We played them here at length. They  
18 were discussed at length.

19 And on all of those recordings, what's heard is  
20 Baslan, not the government's CI, directing the scheme to abuse  
21 children, Baslan talking at length about how to molest  
22 children, how to do it both physically, what sexual acts you  
23 can commit on a child, how to do it emotionally, how you would  
24 encourage a child to be willing to engage in sexual acts with  
25 an adult.

1                   And his latest submission continues his lies. He  
2 again indicates that this was a plan to entrap the  
3 government's CI, who he describes as a monster who was  
4 molesting children. He would have had the jury believe and  
5 the Court believe that he was merely playing along with what  
6 the government CI was trying to do.

7                   And during this, part of that playing along was the  
8 defendant telling the CI how to molest his own daughter,  
9 providing the CI with Benadryl and instructions on how to  
10 incapacitate a seven-year-old, who in the defendant's latest  
11 submission, the defendant claims the CI to have been  
12 interested in sexually abusing. These claims should hold no  
13 more -- and they were rightly rejected by the jury because  
14 they continued to be ridiculous. They continued to be a  
15 scheme, both to attempt to pervert justice and to accept no  
16 responsibility for his actions.

17                   And ultimately, the mandatory minimum sentence for  
18 the act of traveling across state lines to abuse a child under  
19 12 is 30 years. The defendant is not similarly situated to  
20 someone who's committed only that crime and then accepted  
21 responsibility, someone who's committed that crime and  
22 admitted that they have a problem, who has accepted that they  
23 need help.

24                   The defendant should be punished more severely  
25 because he had no qualms about lying after he committed that

1 crime. He had no qualms about engaging other people to help  
2 him lie, about falsely accusing the government of destroying  
3 his culpatory evidence, about submitting false statements to  
4 the Court, about testifying falsely, and even beyond the  
5 things that were at issue at trial, his conduct in this case,  
6 which is heinous, the things that he described in detail about  
7 molesting children.

8 The Government believes that the Court should send a  
9 message to other defendants and to this defendant, that this  
10 conduct of attempting to obstruct justice will not stand, and  
11 that he should be punished more severely not just as to an  
12 indication that his underlying crimes are heinous, but also  
13 because since then, he's done nothing but attempt to  
14 manipulate and lie.

15 And it's for that reason that the Government  
16 believes that Probation was correct to recommend a sentence of  
17 45 years, which is still less than the Guidelines range of  
18 life, which applies in this case. And the Government asks  
19 that that sentence be imposed and be imposed in the manner  
20 that the Government requested in its sentencing memorandum.  
21 Thank you, Your Honor.

22 THE COURT: Mr. Smith, thank you.

23 Mr. Baslan?

24 THE DEFENDANT: If I may, Your Honor, I would just  
25 want to correct a few things. I'm not doing it out of luck,

1 remorse or anything. I just want an abstract conversation or  
2 discussion about what I just heard.

3 Obviously, this came in last minute and I didn't  
4 have a chance to hear the government's response or respond  
5 back to it.

6 THE COURT: You are the last person in the world who  
7 should be worried about complaining about last minute  
8 submissions, but go ahead.

9 THE DEFENDANT: Your Honor, I would have loved to  
10 even do them beforehand. I wrote a letter to Mr. Savitt  
11 today, telling him that in MDC since post-trial, we get one  
12 hour a week to go to law library, maybe one-and-a-half hours.  
13 Then within that time, we have to make photocopies and  
14 everything else.

15 When we come to the unit, we're allowed to log in on  
16 the computer for one hour to write and one hour to log off.  
17 That's not including countdowns and so on. So -- and I even  
18 brought to the Court a list of all my login minutes for the  
19 past couple of months to show him that I've used every single  
20 hour of the day possible. It's not about slacking.

21 I mean, I wish I had help doing the submission, but  
22 I didn't. We had not spoken since -- well, actually we did  
23 not meet, minus the 15 minute meeting and a 30 minute meeting  
24 before the sentencing with Mr. Savitt since my trial had taken  
25 place. I'm not making blame. It's just the fact of what had

1 happened.

2 THE COURT: I beg your pardon? Say that again?

3 THE DEFENDANT: I have not seen Mr. Savitt for more  
4 than one 15 minute and a 30 or 40 minute meeting since trial.  
5 That's a fact. It's not a blame. I'm not saying anything.  
6 I'm -- just it happened that way.

7 And the reason why I decided to continue -- and I  
8 submitted some emails to Your Honor -- that I got a promise  
9 from Mr. Savitt that we will, you know, work together on  
10 issues. The issues for me -- I don't even know if what I did  
11 was good for me or not good for me.

12 I felt -- again, not a blame -- Mr. Savitt had much  
13 health issues that I'm not, you know, saying that's in his  
14 control. I did feel abandoned, as far as I have a lot of  
15 issues and points that I wanted him to sit down with me and  
16 discuss them, which did not happen. Even the submissions,  
17 I've not seen or reviewed any of the submissions minus the  
18 first one, but not with Mr. Savitt.

19 And from what I heard right now with Mister -- from  
20 AUSA Smith, he brings out a lot of points which avoid any of  
21 the points that are brought up in my submission. I tried in  
22 my submissions to be factual, to present evidence to  
23 everything I said. I tried to be respectful. I did not at  
24 all assert remorse or no remorse or defense or no defense.  
25 I'm trying to turn a new leaf, and I was very sincere about my

1 submission.

2 That's it. I mean, I guess, you know, I'm not  
3 qualified to be able to argue with a formidable person like  
4 Mr. Smith. So I just put myself on the mercy of this Court  
5 and I, again, I feel very bad and I sincerely tried.

6 I've been pushing Mr. Savitt and Ms. Stafford to try  
7 to make a deal to waive appeal rights if that would benefit  
8 Kristen, and that was a very sincere offer and sincere effort,  
9 and my message -- the two letters that I wrote to Your Honor  
10 do, in all honesty, reflect how I feel, the conclusion nine  
11 and the sentencing letter submitted today.

12 THE COURT: Well, I don't know where to start. I'll  
13 keep it simple.

14 I hope that those responsible parties who in the  
15 future will -- I'm confident that will review the trial  
16 record. In all these submissions that I've read and now  
17 having read and reread, it's almost as if we didn't have a  
18 trial. It's almost as if we had no testimony. It's almost as  
19 if there were no tapes. There were no discussions. That's  
20 where my focus is today.

21 I'm not concerned about Buffalo. I'm not even  
22 concerned about Jack, who was essentially destroyed without  
23 making an appearance. But there's one thing we can say about  
24 Jack. But for Jack, we wouldn't be here today. You'd be out  
25 free, doing God knows what. So say what you want about Jack.

1 This isn't about Jack. It's about the trial record. It's  
2 about those tape recordings. It's about the demonstrated lies  
3 that you can derive from those recordings, and this absurd  
4 defense that you presented that the jury readily rejected.  
5 And you're going to continue to point fingers at MDC and the  
6 U. S. Attorney and no doubt, Mr. Savitt, Courtney, Jack and  
7 everybody else.

8 I'm not concerned about it. I'm not here to decide  
9 if you're a pedophile or an archangel. I sentence you on the  
10 basis of your conduct, very straight forward. I don't have  
11 the authority, the power -- nor should I -- to judge you as a  
12 man. I judge you based upon what you have done and by what  
13 you attempted to do. Period. End of discussion.

14 And the evidence on that score is compelling.  
15 Frankly, revolting. You know, I take no great pleasure in  
16 sentencing anybody. I particularly take very little pleasure  
17 in imposing lengthy sentences, be they mandatorily-imposed or  
18 not. Too many of them, I take home with me and I can't get  
19 rid of them. But not this one. Not this one.

20 Say what you like. Out of all these other enemies  
21 that you've defined, I am concerned about your conduct,  
22 reprehensible conduct -- conduct that keeps punishing these  
23 victims every day. The murder victim rests in peace. These  
24 victims never have that opportunity. You've got to stop and  
25 think about that. So it's not your charm. It's not your

1 sense of being a victim. It's just about the evidence.

2 No matter what I do, frankly, no matter how  
3 aggressive the Government or the FBI is, right? We can't do  
4 anything about the impact of this type of criminal activity on  
5 the victims. We just can't. We're powerless. We can try to  
6 deter it, as they do appropriately.

7 So it's very unsatisfying. But you're one of the  
8 few folks that I've come across, with due respect,  
9 Mr. Baslan -- and I hope it changes -- that has to be put  
10 away. And in my way of thinking, there are not that many who  
11 do, certainly not for this length of time. But we have to  
12 protect others from folks like you. Those are harsh words.  
13 The evidence in this case leaves me no other way to  
14 characterize it. There's very little to say.

15 I'm going to impose sentence as follows: On your  
16 plea of guilty to Count 5, I'll impose a sentence of 20 years  
17 imprisonment. Special assessment on all counts, totaling  
18 \$500, lifetime supervised release.

19 On your -- the jury having found you guilty on  
20 Counts 1, 2, 3 and 4, I sentence you as follows: On Count 1,  
21 36 years imprisonment; on Count 2, 30 years imprisonment; on  
22 Count 3, 30 years imprisonment; on Count 4, 30 years  
23 imprisonment, those sentences to run concurrently. There will  
24 be no fine.

25 With respect to the issue of restitution, I'll enter

1 an extended order. I find restitution to Jenny in the amount  
2 of \$25,000; restitution to Angela in the amount of \$16,000.  
3 As I said, the subsequent order will issue with respect to my  
4 specific findings relative to the submissions made on their  
5 behalf.

6 Special assessments, I have already announced. Is  
7 there anything else?

8 MR. SAVITT: Just for my clarity, perhaps the --  
9 Your Honor, the Count 5, the 20 years is imposed concurrently  
10 to --

11 THE COURT: All sentences concurrent.

12 MR. SAVITT: All sentences concurrent?

13 THE COURT: Right.

14 Now, special conditions of your supervised release:  
15 You'll participate in mental health treatment, which may  
16 involve the treatment for sexual disorders. In terms of what  
17 you do in prison, as I understand it, Mr. Baslan, that's up to  
18 you. That will tell us something.

19 Did I not say Angela? Did I not name Angela?

20 MR. SMITH: I believe you said \$16,000 for Angela.

21 THE COURT: Jenny and Angela. The first one -- the  
22 higher amount for Jenny and the second amount for Angela.

23 MR. SAVITT: (Nods head affirmatively.)

24 THE COURT: Mental health treatment.

25 I don't want any contact whatsoever with, obviously,

1 any of the victims. That goes without saying -- anyone under  
2 the age of 18, unless a responsible adult is present. If you  
3 cohabit with anyone who has minor children, you're to give  
4 full notice to that person about your criminal history.

5 You'll submit your property, your residence, papers,  
6 vehicles, computers to search and will notify anybody with  
7 whom you live of that condition.

8 These specific conditions are, as you know,  
9 specifically delineated in the Probation Department's  
10 recommended sentence: Not to use a computer to access  
11 pornography of any kind and you'll submit your computer for  
12 forensic search and monitoring as directed by the Court.

13 Is there anything else?

14 MR. SMITH: Did Your Honor -- I don't know that you  
15 have indicated sex offender registration, which would be  
16 mandatory. It's in the Probation report.

17 THE COURT: As required by law, I'll make it a  
18 condition of supervised release. It's required independently  
19 by law, sex offender registration in any jurisdiction wherein  
20 you reside.

21 MR. SAVITT: Would Your Honor consider recommending  
22 designation to the Otisville facility, where I understand  
23 there is a --

24 THE DEFENDANT: Sex offender.

25 MR. SAVITT: A sex offender treatment. There may be

1 --

2 MS. LOCKWOOD: No, I don't think.

3 THE COURT: Not to my knowledge.

4 MS. LOCKWOOD: There may be a group. Devens is a  
5 more comprehensive program, and he will be considered for such  
6 a program probably as it gets closer to his release. But  
7 anywhere he's designated, they should have at the very least a  
8 group or some type of treatment he can attend.

9 THE COURT: I'm going to leave that matter to the  
10 officials --

11 MS. LOCKWOOD: Yes, please.

12 THE COURT: -- of the Bureau of Prisons in  
13 consultation with the Court and the Department of Probation.

14 Anything else?

15 MR. SAVITT: Yes, Your Honor. May we have a copy  
16 pursuant to CJA of these proceedings? And I'll forward them  
17 to Mr. Baslan together with the Notice of Appeal that I will  
18 file for him.

19 THE COURT: Of course.

20 Mr. Smith, anything else?

21 MR. SMITH: One second, Your Honor. (Consults with  
22 Ms. Lockwood.)

23 Your Honor, the Court has obviously imposed its  
24 sentence, but the Government would ask that you impose 36  
25 years instead of 30 on Count 4, running concurrently to the

1 other counts.

2 THE COURT: What did I do? Did I misspeak?

3 MR. SMITH: You imposed 30, Your Honor. You imposed  
4 36 years on Count 1.

5 THE COURT: Right.

6 MR. SMITH: And 30 on the remaining counts. Count 4  
7 also carries a maximum sentence of life. The Government would  
8 ask that you impose 36 years on that count.

9 THE COURT: I did misspeak. Let's review it. Count  
10 1, 36 years; Count 2, 30 years; Count 3, 30 years; Count 4, 36  
11 years; Count 5, 20 years.

12 Thanks for bringing that to my attention.

13 MR. SMITH: All to be run concurrently?

14 THE COURT: All to run concurrently.

15 Anything else?

16 MR. SMITH: Nothing from the government.

17 MR. SAVITT: I don't believe. Nothing from the  
18 defense. Thank you, Your Honor.

19 THE COURT: Good day.

20 (Proceedings concluded.)

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